(1939) Departmen

MI SERIES

G.O. No. 2229

Dated 30-8-39

[Despatch Abstract]

HMENT - Land - (South kanara) - Udipi taluk - Nandicur villag
-191/2 - petition from Shri Raghumanya Thirtha Swamiar -ord-
passed

To

The Secretary to Government,
Revenue Department,
Madras.

1976 F/39
15.4.39

Shri Raghumanya Thirtha Swamier,
of Palimar Mutt, Udipi,
South Kanara District. Memorialist.

Most Respectfully Sheweth:-

That the Memorialist being highly aggrieved by the order of the Board of Revenue, Land Revenue, Madras, B.P.Rout.No.4674, dated 9-11-1938 (enclosed) dismissing his Revision -- petition against the order of the Collector of South Kanara D.Dis.4465/37 dated 12-10-'37 cancelling the assignment of S.Nos.191/2, 193, 194, 191/1C2 & 192/1B of Nandicur village, Udipi --- Taluk made in favour of the Memorialist by the Tahsildar of Udipi in his order D.R.No.37/46, dated 12-10-'36 begs to approach the Government with this Memorial with the fervent hope that the Government will redress the very great wrong done to him in the matter.

2. That the Memorialist submits that the facts of the case which led to the assignment of the plots to the Memorialist by the Tahsildar in his order quoted above are briefly as follows:- The people in the northern parts of the District feeling the difficulty of providing good cattle approached the then Collector (E.M.Gawne Esq.I.C.S) with a proposal to open a cattle fair at the --- locality which was a central place and the Collector was pleased to appreciate the idea and give valuable

suggestions after visiting the village and consulting the Memorialist in person. That Collector was shortly afterwards transferred from the District and his successor Mr. Humayun when approached by the Memorialist with the same proposal was pleased to approve it and promised his full support in that behalf. The Memorialist was promised by the Collector that he would make available a fairly big block of waste land for the purpose and therefore purchased a breeding bull at the instance of the Collector; but subsequently it was found that as much land as was necessary for the purpose was not available in Nandicur or Palimar villages and thus the Memorialist had to drop the idea of arranging for a cattle fair. He however thought of opening only a miniature farm for breeding cattle and therefore under verbal orders of the kind Collector (Mr.Humayun) applied for the plots in question along with some other blocks for the purpose. But the plots in question alone were found to be available without objection from anybody and the kind Collector having been pleased to sanction the assignment, the Tahsildar assigned the plots to the Memorialist in his order -- quoted above.

3. That the Memorialist after the assignment of the plots to him by the Tahsildar first enclosed the block by a wall, constructed tenants' -- houses and made other improvements costing about Rs. 400/- and just when the Memorialist was thinking of making other arrangements for utilising the land for the purpose in view, the Memorialist received a notice about the revision petition filed before him by some of the wargdars of the village against the assignment in question. This was after the lapse of a year fr— the date of assignment. That the Memorialist then

proved to the satisfaction of the Collector that the objection petitioners had no sort of claim to the -- land and that their objection was only through selfish motives and grudge and that the assignment was properly made by observing all the formalities laid down in the B.S.O. as would be clear from the following facts -- supported by the connected records

1958 ABKN61 (i) the land is non-kumaki and para 40 of B.S.O. No.15 which is specially applicable to this district only, clearly lays down that no one has any preferential claim over non-kumki land

(ii) the Wargadars having no preferential right over the land, there is no need to serve the Al, notice on them and the Al notice in this case has been published in the village according to rules and also signed by a good number of wargdars of the village and the formalities required have been strictly --- followed.

(iii) the land having once been reserved for assignment to the Scheduled classes and thrown open for assignment at the instance of the Memorialist, the Wargadars even if they had any privileges over it were estopped from exercising such privilege or using the land in any way long before the assignment was made.

(iv) the wargadras did not come forward with -- any objections when the land was inspected at various times by the Collector and the Tahsildar in connection with the proposed assignment of the land to the Memorialist.

(v) There was absolutely no reason nor is there anything in the records to show that the assignment

was brought about by fraud or misrepresentation or that it was passed under a mistake of fact or that there had been any material irregularity in the proceedings which alone could call for the interference of the Collector in revision under B.S.O.No.15-18.

(vi) There was thus a valid grant of the plots to the Memorialist who had thus acquired a -- valid title to the land as held in I.L.R.26 Madras 268 & 742 and that the Memorialist has all along been in actual possession and effective occupation and -- enjoyment paying assessment.

4. That though the Collector was pleased to satisfy himself that the facts of the case were as represented by the Memorialist and that the objectors had no claim to the plots, he cancelled the assignment merely on the ground that the Tahsildar did not follow the instructions laid down by the Collector that the assignment should be made according to the rules.

5. That the Memorialist submits that when the Collector was satisfied that the wargdars who filed the revision petition before him had no right over the land as would be clear from paragraph 3 of his own order D.Dis.4465/37 d/- 12-10-37 and when the records clearly showed that the rules were strictly followed by the publication of Al notice and its service on some of the wargdars of the village, -- there was absolutely no ground to cancel the assignment and therefore the Memorialist approached the Board of Revenue with a petition praying for the cancellation of the Collector's order and the --- restoration of the Tahsildar's order; but the Board of Revenue has summarily dismissed his petition in

its Proceedings Rt.No.4674, dated 9-11-38 by remarking that there was clear fraud in getting through the formalities of darkhast procedure by keeping the -- adjoining wargdars in ignorance of the notice in form Al and that the Memorialist is neigther a resident of the village nor the owner of land anywhere near the darkhast lands.

6. That the Memorialist submits that the Board of Revenue seems to have ignored its own standing Order No.15-40 which as already represented does not enjoin the service of Al notice on any Wargdar or their examination in darkhast cases when the darkhast for non-kumki land is involved; neither does it prohibit the assignment of non-kumaki land to non-residents. The Board also appears to have overlooked the circumstances under which the assignment was made in this case at the instance of the Dt.Collector.

7. That the Memorialist submits that he owns extensive Kadim wet and garden lands in the adjoining Phalimar village where there is hardly any dry land for the proper cultivation of his property, much less for grazing his well-bred cattle and there is nothing in the B.S.O.quoted above which prevents a wargdar of one village from obtaining on darkhast Government waste land in the adjoining village. On the other hand there is a clear provision in the said B.S.O. that the wargdar of one village is entitled to obtain Kumaki land in another village adjoining his Kadim lands and on this analogy the Memorialist who is the wargadar of the adjoining village could not reasonably be denied the land in the adjoining village especially as there is no sufficient dry land in his village for the cultivation of his vast property. It is very common in this

district for the Government to grant non-kumaki land in one village to a wargadar of the neighbouring village under similar circumstances.

8. That the Memorialist therefore prays that the Government may be pleased to call for all the connected records, and in consideration of the special circumstances under which the land was assigned to him cancel the -- Collector's order in order to restore the Tahsildar's order of assignment of the plots to the Memorialist.

Mp 25-269 9:8 (S) 61 37 (R)

Udipi,
D/- 31-1-1939

This is the Signature of Sri Raghuvanya Tirtha Swamiar in Tulu.

REVENUE DEPARTMENT.

ASSIGNMENT - Land - (South Kanara Udipi taluk - Nandicur village - S.No. 191 etc. - Petition from Raghumanya Thirtha Swamier, dated 31.3.39.

ENDT. NO. 1976 F/39-1, dated 21.4.39.

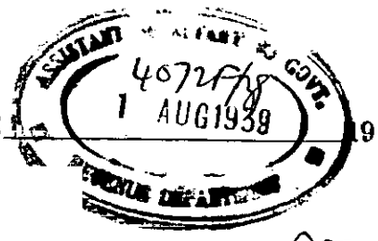
A copy of the petition quoted above is forwarded to the Board of Rev. for submission of the connected records together with any remarks which the Board or the District Authorities may wish to offer on such of the petitioner's contentions as have not been fully dealt with in the proceedings taken and the orders passed.

To the Board of Revenue
(with copy of petition)

C.F. 31—14,000—7-7-37.

REVENUE DEPARTMENT.

CURRENT No.



eived _____ *Registered* _____ 19 .

Subject.

ASSIGNMENT - Land - (South Kanara) - Udipi Taluk - Nandicur village - No. 191 etc. - Petition from Raghumanya Thirtha Swamier - Report -

Ref. B. No. 2276/39-2

tion MADRAS, *Dated the* 27th July 1939. 19

om

S. Venkateswaran, Esq., I.C.S.,

Secretary,

Board of Revenue.

F.W. Stewart, Esq., C.I.E., M.C., I.C.S.,
Commissioner of Land Revenue.

Read the following:

From the Government, Revenue Department, Endorsement No. 1976 F/39-1 dated 27-4-1939.
Letter from Sri Diwan Bahadur L.V. Vellodi, B.A., Collector of South Kanara, D.Dis. 3482-39 dated 26th June 1939 to the Secretary to the Board, Land Revenue & Settlement, Madras.

Subject:- ASSIGNMENT - Land (South Kanara) - Udipi Taluk - Nandicur village - S.Nos. 191 &c. - Petition from Raghumanya Thirtha Swamier - Records - Submitted.

Board's Refce. B.No.2276/39-1 dated 15-5-1939.

21-6 and I return herewith the copy of the petition from Raghumanya Thirtha Swamier dated 31-3-39 to the Government received with the Board's reference quoted above.

2. The petition is against the cancellation of the assignment of plots S.Nos. 191/2, 193, 194, 191/1C and 192/1B of

the aggregate extent of acres 22.64 of Nandicur village Udipi Taluk, made in the petitioner's favour by the Tahsildar of Udipi in D.R. 37/46 dated 12-10-36. I ordered the cancellation of assignment in my Proceedings D.Dis. 4465/37 dated 12-10-37 and my order was upheld by the Board in its Proceedings Rt. No. 4674 dated 9-11-1938 passed on the petitioner's revision petition to the Board in connection with which I had reported the facts of the case and offered remarks on the various allegations made by the petitioner in my letter D.Dis.28/38 dated 15-3-38 and D.Dis.3963-38 dated 30-6-38 with reference to Board's Ref.C.No.B.5637-37-1 dated 17-12-37 and B. 5637/37-2 dated 17-6-38 respectively. There are no fresh grounds urged in the present petition calling for any further remarks except to say that petitioner has done nothing substantial for cattle breeding.

3. xx xx xx

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REFERENCE.

Submitted to the Government

2. The petitioner has not urged any fresh grounds which have not already been considered by the Board. A copy of B.P. Routine 4674 dated 9-11-38 and the connected records are submitted.

for SECRETARY. 29.7.39.

To the Secretary to the Government, Revenue Department.
with copies of Collector's letter D.Dis. 28-38 dated 15-3-38.
" " D.Dis. 3963/38 dated 30-6-38.
Board's Proceedings Routine No.4674 dated 9-11-38
Extract from the A Register.
& Records as per list.

Letter from M.R.Ry. Rao Bahadur M.V. Vellodi, Avl., B.A., Collector of South Kanara, Di.Dis.28-38 dated 15-3-1938 to the Secretary to the Board, Land Revenue and Settlement, Madras.

Subject:- ASSIGNMENT - Land - (South Kanara) - Udipi Taluk - Nandicur village - S.No. 191 & c. - Sri Raghumanya Thirtha Swamier - Petition - Reported.

Board's No.B. 5637-37-1 dated 17-12-1937.

I resubmit herewith the petition of Sri Raghumanya Thirtha Swamier of Phalimar Mutt, Udipi with its enclosures received with the Board's Reference No.B.5637-37-1 dated 17-12-37.

2. The petition is against my order D.Dis. 4465-37 dated 12-10-37 cancelling the Udipi Tahsildar's orders D.R. 37/46 dated 12-10-36 assigning plots S. Nos. 191/2, 193, 194, 191/1C and 192/1B of the aggregate extent of acres 22.64 of Nandicur village to him.

3. The plots in question were originally reserved for assignment to the Depressed classes. In 1936 the petitioner approached the then Collector Mr. Humayun for the assignment of a large area of about 100 acres of land in the villages of Nandicur and Phalimar for the purpose of holding a cattle fair. As no suitable waste land of the required extent was available, the petitioner gave up the idea of a cattle fair and wanted the assignment of about 25 acres for the grazing of his cattle in the improvement of which he was specially interested. The Tahsildar submitted his report Ref.D.R.37/46 dated 22-7-36 recommending the disreservation of the lands which were reserved for assignment to Depressed on the ground that most of the area was not fit for assignment to depressed classes and the assignment of the plots to the petitioner. The Collector (Mr. Humayun) accorded sanction for the disreservation and the assignment of the plots in question to the petitioner in his Proceedings D.Dis. 3764-36 dated 31-7-36 in which he also directed the Tahsildar to publish notices in the prescribed manner and

and see if any objections were received. On receipt of the Collector's order, the Tahsildar directed the Village Officers to submit A memo after properly publishing the A 1 notice in the village. The Village Officer published the A1 notice by obtaining the signatures of some persons and submitted A memo recommending the assignment of the plots to the petitioner. The Revenue Inspector having supported the Village Officer's recommendation the Tahsildar assigned the plots to the petitioner in his order D.R.37/46 dated 12-10-36.

4. On 1-9-37 one Vamana Shanbhogue and nine other wargdars holding lands near the darkhast plots filed a petition before me protesting against the assignment of the plots to the present petitioner, a non-resident of the village on the ground that they had been using the land in question for the removal of leaf manure for the cultivation of their adjoining kadim property and contending that the present petitioner got the assignment order clandestinely passed in his favour as not even one of them was consulted or examined or even informed of the darkhast proceedings. On perusing the records of the darkhast enquiry I found that the allegation about the non-compliance of the injunctions of the Collector, Mr. Humayun was true as not a single wargdar owning lands near the darkhast plots was made aware of the darkhast proceedings; neither was the signature of any of the adjoining wargdars obtained in the A 1 notice. I therefore heard the parties and cancelled the assignment in my proceedings D.Dis.4465/37, dated 12-10-1937.

5. The petitioner seeks a revision of this order. His main contention is that the land having been assigned to him after observing all the formalities, there was no case for the Collector's interference in revision. He also adds that he has effected improvements in the land at a cost of over Rs.400/-

6. The enquiry now held by the Tahsildar shown that the petitioner has grossly exaggerated the improvements alleged to have been made. The Tahsildar on inspection has found only two small tenants' houses costing about Rs.60/- and an enclosure wall mostly of mud and partly of stones costing about Rs.66/- put up at the close of the last monsoon on the commencement of which work, the adjoining wargdars filed their revision petition before me. There is also no force in the present petitioner's contention that there was no fraud &c. in the darkhast proceedings. The fact that all the adjoining wargdars who must be the first to know about the proceedings were not served with A 1 notice which was after all got signed by persons who had absolutely no interest in the disposal of the land is a strong circumstance to show that there was material irregularity in the procedure on account of which I cancelled the assignment made by the Tahsildar.

7. I enclose the connected records as noted in the margin for reference.

1. Taluk D.R. 37/46
2. Huzur D.Dis. 3764/36
3. " " 4465/37.

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Letter from Sri Rao Bahadur M.V. Vellodi, B.A., Collector o South Kanara, D.Dis.No.3963/38 dated 30th June 1938 to the Secretary to the Board, Land Revenue, Madras.

SUBJECT:- Assignment - Land - (South Kanara) - Udipi Taluk - Nandicur village - S.No. 191 &c. - Sri Raghumanya Thirtha Swamier - Petition.

Board's Reference B.No.5637/37-2, dated 17-6-1938.

The plots in dispute are no doubt outside the kumaki limits of the adjoining wargdars and under paragraph 40 of B.S.O. No.15, the wargdars have no

preference

14-2-46

preference to land beyond their kumaki. But, according to the practice obtaining in this district, wargdars are generally granted kumaki as well as nonkumaki lands at the rate of two acres for every acre of kadim wet and garden lands held by them to serve as an aid for the cultivation of their kadim lands. Such grant of non-kumaki lands is generally comprised of kumaki adjuncts. The case of the assignment of such kumaki adjuncts is therefore generally considered with reference to the needs of the adjoining kumakidars.

2. In the present case the wargdars could not apply for the land in dispute earlier as it was originally reserved for assignment to the Depressed Classes. But, after the land was disreserved and thrown open for assignment under the ordinary darkhast rules the adjoining wargdars had a claim in preference to the petitioner who is neither a resident of the village nor an owner of land anywhere near the darkhast land. They could not, however, prefer their claims as they were kept in complete ignorance of the fact of disreservation in spite of the fact that the Collector, Mr. Humayun, while according administrative sanction for the assignment of the land in his proceedings, D.Dis.3764/36 dated 31-7-1936 directed the Tahsildar to publish notices in the prescribed manner and see if any objections were received. The Village officers instead of serving the notice in form A1 on the adjoining wargdars collusively got the signatures to it of persons who had no interest of any sort in the land. It was this conduct on the part of the Village officers which if in the Board's opinion did not result in any material irregularity in the light of B.S.O.No.15 (40) but, at least indicated clear fraud that made me cancel the darkhast order.

3. The records received with the Board's reference are returned herewith.

Udipi Taluk D.R. 37/46.
Huzur D.Dis. 3764/36.
" D.Dis. 4465/37.

Board's Proceedings Routine No. 4674 dated 9-11-38
to the Petitioner, Sri Raghumanya Thirtha Swamier,
Phalimar Mutt, Udipi, and to the Collector of South Kanara.

Subject:- ASSIGNMENT - Land - (South Kanara) - Udipi taluk
Nandicur village - S.No. 191 etc. - Raghumanya
Thirtha Swamier - Petition - Dismissed.

Read:- From Sri Raghumanya Thirtha Swamier dated 9-11-37.
Letter from the Collector of South Kanara, D.Dis.
3963/38 dated 30-6-1938.

RESOLUTION.

The petition cited above is a revision petition from Sri Raghumanya Thirtha Swamier against the Collector's Order D.Dis.4465-37 dated 12-10-37 cancelling the Udipi Tahsildar's order assigning to the petitioner S.Nos.191/2, 193, 194, 191-1C2 & 191/1B of Nandicur village, Udipi Taluk, South Kanara District.

2. The Board has examined the connected records. It observes that there was clear fraud in getting through the formalities of darkhast procedure in this case as the adjoining wargadars were kept in ignorance of the notice in form A-1. Further the petitioner is neither a resident of the village nor does he own lands any where near the darkhast lands. The Board sees no reason to interfere with the Collector's order. The petition is dismissed.

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G.L. 29-7.

List of records sent tothe Secretary to the Government, Revenue Department with Board's Ref.B. No.2276/39-2 dated 27th July 1939.

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1. Huzur D.Dis. 3764/36 dated 31-7-36.
2. Huzur D.Dis. 4465/37 dated 12-10-37
3. Udipi Taluk D.R. 37/46 dated 12-10-36.

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A ರಿಜಿಸ್ಟ್ರಿ South Kanara District, Udipi Taluk No 112 Nandicur village. Extract from the Settlement Register. R.F. III-C-1.

ದಕ್ಷಿಣ ಕನ್ನಡಾ ಜಿಲ್ಲೆಯ — ಉಡುಪಿ — ತಾಲೂಕು ನಂಬ್ರ 112 ನೇ ನಂದಿಕೂರು ಗ್ರಾಮದ ಸರ್ವೆ ಮೆತ್ತು ಸೆಟ್ಲ್‌ಮೆಂಟ್ ರಿಜಿಸ್ಟ್ರಿ 1348 ನೇ ಫಸ್ಲಿ ಬಗ್ಗೆ-

(1) ಸರ್ವೆ ನಂಬ್ರ. Survey No.	(2) ಸಬ್ ಡಿವಿಜನ್. sub division	(3) ಹಳ್ಳಿ ವರ್ಗ ಮತ್ತು ಕುಡಿ ಕೆ ನಂಬ್ರ. old survey No.	(4) ನಂಜ (ನ. I = 1 ನೇ ಕ್ಲಾಸ್ ನಂಜ, II = 2 ನೇ ಕ್ಲಾಸ್ ನಂಜ; ನ. III = 3 ನೇ ಕ್ಲಾಸ್ ನಂಜ), ಬಾಗಾಯ್ತು (ಬಾ.), ತೋಟ (ತೋ.), ಹೊಲಿಸಿದ ಪಡ್ಡಿ (ತ. ಹೊರಿಸಿದ) - ಯಾ - ಪೋರಂಬೋಕು (ಪೊ). Classification	(5) ಒಂದು ಬೆಳೆ (1) - ಯಾ. ಎರಡು ಬೆಳೆ (2).	(6) ಮಣ್ಣಿನ ಕ್ಲಾಸ್ ಮತ್ತು ತರ.	(7) ತರಂ.	(8) ಎಕ್ರೆ 1 ರ ದರ. ರೂ.	ಆ.	(9) ವಿಸ್ತೀರ್ಣ. ಎ.	ಸೆ.	(10) ತೀರ್ವೆ. ರೂ.	ಆ.	(11) ಪಟ್ಟಾದಾರನ ಸಂಬ್ರ-ಮತ್ತು ಕಸನು.	(12) ಸಾಗುಗೇಣಿದಾರರ ನಿಸ್ಸಾರಿ ಅಪನ ಕೆಸನು.	(13) ಪರಾ.
191	1C	2	ಪು.	-	7·4	4	1	.	.	46	.	7			ಕೃಷಿಕ ಸಹಾಯಕ ನಿ. ಕಿ 37/1346 ಇಲಾಖೆಯ ಮಂಜೂರಾತಿಯಲ್ಲಿ ಸರಕಾರಿ ಪಡಿತರ ಅಂಗಡಿಯ ಪಡೆಯಲು ಅಕ್ಕಿಯ ಸಗಟು ಮಾರಾಟಕ್ಕೆ ಅಧಿಕಾರ ಪತ್ರ 4465/37. ದಿನಾಂಕ 12·4·37 ಇಲ್ಲಿ ಅ. ನಂ 7979/37 ಕಾಯ್ದಿರಿಸಿದೆ. Darkhast cancelled in Circle Office 4465/37 12·4·37
192	LB	2	ಪು.		7·4	4	1	.	2	85	2	14	Government Assignment Area waste			
191	2		ಪು.		7·4	4	1	.	1	56	1	9				
193	.		ಪು.		7·4	4	1	.	9	68	9	11				
194	.		ಪು.		7·4	4	1	.	8	05	8	1				
									2	60		11				

Dry

Date 5-6-1939

Signature of Inspector

Signature of Head Surveyor

Signature of Superintendent

12-6-39

ಲು: "ನ." ಸೆಟ್ಲ್‌ಮೆಂಟ್ ರಿಜಿಸ್ಟ್ರಿ ಯಾನ ಇಂಗ್ಲೀ ಜಿಲ್ಲಾ ಭಾಷೆ ರಿಜಿಸ್ಟ್ರಿ ಮತ್ತು ವೃತ್ತಾಂತವು ಕಾಯಂ ದಾಖಲು ಆಗಿರಬೇಕಾಗಿದೆ. ಜಮಾಬಂದಿ ಅಂತದಾಗಿಸಿದ ಮೇಲೆ ಕೂಡಿಸಲಾದ ಖಾನಿಸ್ಥಳಗಳು ಮುಂತಾದ ಕಾಯಂ ಸ್ವಭಾವದ ಅಲ್ಲಾ ತಬ್ದೀ ಪರಾ ಕಲಮಿನಲ್ಲಿ ಪೋರಂಬೋಕಿನ ವಿವರಣೆಯನ್ನು ಕಾಣಿಸತಕ್ಕದ್ದು. ದೃಷ್ಟಾಂತ, ದೇವಸ್ಥಾನ, ತೋಡು, ಹೊಲವು, ಕುಮ್ರಿ - ಯಷ್ಟೆ - ಕುಮ್ಟೇಣಿ ಸ್ಥಳವೋ, ವಿಕೇದ, ದರಗಳಲ್ಲಿ ತೀರ್ವೆ ಹೊರಿಸಲ್ಪಟ್ಟ ಇತರ ತೆರೆದ ಭೂಮಿಯೋ ಎಂಬವನ್ನು ಕಾಣಿಸ ತಕ್ಕದ್ದು.

"ನ." ಸೂಚಿಸಿದ ಹುಕುಮಿನ ನಂಬ್ರ - ವ - ತಾರೀಕು ನಿಜಂ ಪರಾ ಕಲಮಿನಲ್ಲಿ ಬಾಸ್ತಿ ತಾರೀಕು ವರೆಗೆ ದಾಖಲು ಮಾಡತಕ್ಕದ್ದು. ರಿವಿಸ್ಡ್ ಜಾತಿಯ ಪಟ್ಟಿಯ ಪಿದಲಿಗೆ ಸಂಜ್ಞಾಕ್ಷರಗಳನ್ನು ಉಪಯೋಗಿಸಬಹುದು. ಉದಾ: "ಪು." ನಂಜ "ಪೊ." ಮತ್ತು ಬಾಗಾಯ್ತಿಗೆ "ಬಾ."

Reply to Govt Education 12/7/8

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REVENUE DEPARTMENT.

(C.NO.1976 F/39) Assignment - Land - (South Kanara) -Udipi taluk - Nandicur village - S.No.191 etc. - Petition from Raghumanya Thirtha Swamier, dated 31.3.39.

EXTRACT OF H.M.'S (REV.) REMARKS.

" Records may be ~~xxx~~ called for "

T.P.
13.4.39.

To U.S.

Please see the petition at pp 1-6 C.F. and the extract of H.M.'s remarks above.

2. The petitioner was assigned about 22 acres of land in Nandicur village, Udipi taluk , South Kanara district by the Tahsildar in his D.K. C.No. 37 of fasli 1346, dated 12.10.36. On a petition from the adjacent pattadars objecting to the assignment, the Collector of South Kanara cancelled the Tahsildar's order in his D.Dis.4465-37, dated 12.10.37. The revision petition to the Board of Revenue against the Collr.'s order was dismissed by the Board in its B.P. Rout.No.4674, dated 9.11.38. The present petition contains a request to cancel the Collr.'s order and to give effect to the Tahsildar's order.

3. With reference to H.M.'s remarks above, a draft endt. to the Bd. of Rev. is submitted for approval.

26/4.

2/4

Issued as Endt.No.1976 F/39-1 dated 27.4.1939. p.19 c.f

From the Bd. of Rev., Ref.B.No.2276,/39-2, D/ 27.7.39. pp.21-22 c.

To U.S.

Please see the notes on p.1 ante and the Bd's report at pp.21-22 c.f.

2. The facts of the case are briefly summarised below. S.Nos.191/2,193,194,191/1C and 192/1B of Nandiavar Village, Udipi Taluk, South Kanara Dt, of an aggregate extent of 22.64 acres were originally reserved for assignment to the Scheduled classes. In 1930, the ~~xxxx~~ Tahsildar, Udipi, recommended the disreservation of the lands which were reserved for assignment to members of the scheduled classes on the ground that most of the area was not fit for assignment to the scheduled classes, and their assignment to the petitioner, Sri Raghumanya Thirtha Swamier. The then Collector of South Kanara, Mr Humayun accorded sanction for the disreservation and the assignment of the plots in question to the petitioner in His Proceedings D.Dis., 3764-36, dated 21.7.36 in which he directed ~~xxxx~~ the Tahsildar to publish notices in the prescribed manner and see if any objections were received. On receipt of the Collr.'s order, the Tahsildar directed the Village officers to submit A Memo after properly publishing the A1 notice in the village. The village officers ~~xx~~ reported to have published the A1 notice by obtaining the signatures of some persons and submitted A Memo recommending the assignment of the plots to the petitioner. The Revenue Inspector having supported the village officer's recommendation, the Tahsildar assigned the plots to the petitioner in his Order D.R.No.37-46, dated 12.10.36. On 1.9.37, one Vamana Shanbogue and nine others wargdars protested against the assignment of the plots to the petitioner, a non-resident of the village on the ground

Collr's report Lr Mp 23-26 Cf
para 3 p 23 Cf
Mp 1-3 Cf & (F)
Mp 7-8 Cf & (F)
BSOIS Gr. p 59 BK.I
Mp 7-8 Cf & (F)
p 17 & (R)
113 & (R)
end & para 3 p 24 Cf
p 1 Cf & (R)
- para 4 p 24

that they had been using the land in question for the removal of leaf manure for the cultivation of their adjoining kadim property and contending that the petitioner got the assignment order clandestinely passed in his favour as not even one of them was consulted or examined or even informed of the darkhast proceedings. The Collr. has reported that on perusing the records of enquiry, he found that the allegation about the non-compliance of the injunctions of the Collector Mr. Humayun was true as not a single wargdar owning lands near the darkhast plots was made aware of the darkhast proceedings and neither was the signature of any of the adjoining wargdars obtained in the A1 notice and that therefore he cancelled the assignment in his proceedings D.Dis.4465/37, dated 12.10.37. The Collr. has also reported that the petitioner's statement that he had effected improvements in the land at a cost of over Rs.400/- is not true. He estimates the cost of improvements at Rs.126/-. The Collr. also stated that the village officers instead of serving the notice in form A1 on the adjoining wargdars collusively got the signatures to it of persons who had no interest of any sort in the land and that this conduct on the part of the village officers indicated clear fraud. The revision petition of the Swamiar was dismissed by the Bd. in its Resol.No.4674, dated 9.11.38. The petitioner's present request is to cancel the order of the Collr. and to give effect to the Tansildar's order of assignment. In the circumstances reported by the Collr. and the Bd., it is for orders whether the petition may be informed that as there are no grounds for interference.

to orders. There does not
seem to have been much worry
about the assignment. It
was probably kept as much
possible from the knowledge
of the adjacent wageldars for
fear that they might raise
objection. Apparently they
had no prejudicial rights
over the land but when
they knew an outsider was
getting it, they naturally
objected for the sake of
objection. The Colln.
considered it desirable that
the Francis should have
more grazing land & in
the absence of any prejudicial
right on the part of the
people. He might have been
allowed to keep it

CB
2/3/38
23/3/38
26
Rev Dept

O.F.16.

DRAFT FOR APPROVAL.

Date. Initials.

SUBJECT:—

When received for fair copying		
When copied		
When examined		
When signed		
When despatched.		

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:

C. No. 1976/39 From the Sri Raghumanya Thirtha Swamiar, No. Petition, dated 31-3-1939. fol 1-6 cf

" Encl to the Bd of Rev. No. 1976 F/39-1 of 27-4-1939. fol 19 cf

" From the Bd of Rev. Reg B. No. 2276/39-2 of 27-7-1939. fols 21-22 cf

Order Ms. No. 2299 dated 30-8-1938. cf

fols 25-26 cf ✓ (S)

fol 1 of (R)

In his O. Dis. 4465-37, dated 12-10-37, the Collr. of S. Kanara cancelled the Tahsildar's order of assignment to the petitioner Sri Raghumanya Thirtha Swamiar of a total extent of 22.64 acres of land in S. Nos. 191/2, 193, 194, 191/1C2 and 192/1B of Nerdicur village, Udipi taluk, on the receipt of an objection petition from the adjoining warg-dars and as the darkhast formalities had not been properly observed. The revision petition against the Collr's order

there is nothing to show that the adjacent warg dars have any preferential claim to the land. The

In the absence of any preferential ~~right~~ claim to the land on the part of the adjacent warg dars, there is no objection to the petitioner being given the land. The Board of Rev. is accordingly

has been dismissed by the Bd of Rev. in B.P.Rt. 4674, d. 9.11.38. The petitioner now requests that the original order of assignment may be restored.

2. In sanctioning the assignments of the Lands in question to the petitioner in para 2 of D. Dis 3764-36, dated 31-7-36 the Collr seems to have favourably considered the petitioner's need for land for grazing his cattle and in the absence of any preferential right over the lands (on the part of other people) there is no reason why the petitioner should not be allowed to keep the lands. The Bd of Rev. is accordingly requested to instruct the Collr of S. Kanara to give effect to the original order of assignment of the Tahsildar in D.R.No. 37-46 d. 12.10.36

3. The petitioner is referred to the Bd of Rev. for orders on his petition, d. 31.3.39

RD 23/8

h

DSP

21

Pp 1-6 Cf

Requested to instruct Collr of S. Kanara to give effect to the assignment orders pp 1 to 8 Cf. (1 Cf)

* Pl see para 3 at p 2 Cf of (F) and last line of p 25 Cf of (S)

2. The 2-The petr is referred to the Bd of Rev for orders on his petn d 31.3.39 p 4 N.F. of and of p 25 Cf

RD 23/8.

p 4 N.F

CFW

VM

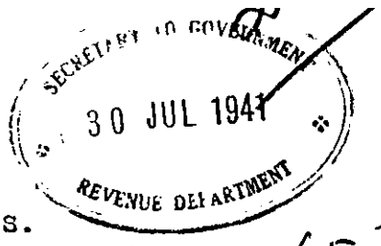
p 1 Cf (R)

DSP 31/8

pp 1-6 Cf p 21 Cf

2. The Bd of Rev (Contl records are produced) 2 to petitioner (para 3 early) Contl records retd)

VM 7-18 Cf



Before the Government of Madras.

Revenue Department.

R 2706/F

73 pm 30.7.41

1. Vaman Shanbhog, Son of Venkatesha Shanbhog.
2. Narayana Shetty, son of Muthu Shedthy.
3. Chendaiya Shetty, Nephew of Rama Shetty.
4. Venkanna Shetty, Nephew of Basappa Shetty.
5. Nagi Shedthy, Daughter of Maire Shedthy.) Petitioners.
6. Abbakke Shedthy, Daughter of Bhagi Shedthy.
7. Kadia alias Muthaya Shetty, Nephew of Dogra Shetty.
8. Panduranga Kamthi, son of Narayana Kamthi.

Petitioners 1-7 are residing in Nandikoor Village, Udipi Taluk, South Kanara District and the 8th Petitioner resides in Adhikari-bettu Village Mangalore Taluk.

Versus

Sri Raghu mania-thirtha Sripadangalu, Swamier of Palimar Mutt Udipi, South Kanara.) Respt.

Petitioners named above being highly aggrieved by the Order of the Government in G.O.No.2229, Revenue. Dated 30-8-39, pray for a Review of the order and for Justice being done to them.

1. S.No.191/2, 193,194,191/102, and 192/1B of Nandikoor Village, measuring in the aggregate acres 22-64, Udipi Taluk South Kanara, were assigned by the Tahsildar of Udipi to the respondent in D.R. 37/46.

2. The petitioners along with 3 others then moved the Collector of South Kanara for a Revision of the said assignment by the Udipi Tahsildar with the result the Collector in his proceedings D.Dis 4465-37 dated 12-10-37 cancelled the assignment to the Respondent holding that the Tahsildar in making it had not obeyed the injunctions given to him by the Collector in his Proceedings D. Dis.No.3764-35, dated 31-7-'36.

3. The respondent then approached the Board of Revenue, with a petition praying for Revision f the above said order of the Collector cancelling the assignment of the above mentioned plots in his favour. But the Board of Revenue in its proceedings, B.P.No.4674-Routine, dated 9-11'38 (Land Revenue) di dismissed the said revision petition of the respondent, holding that there was clear fraud in getting through the formalities of Dharkhast procedure, as the adjoining Wargdars were kept in ignorance of the notice in form A, and that since the respondent was neither residing in the Village nor owning any lands anywhere near the Dharkast lands-a fact, true even to-day -he was not entitled to the assignment cancelled by the Collector as stated above.

4. Having been thus disappointed in satisfying without regard to the nature of the means adopted,-his unjustifiable hunger for land, the respondent as the petitioners very recently learnt appears to have petitioned the Government, and by grossly misrepresenting that the adjoining Wargdars had failed to put forward any preferential claims to the plots in question and ~~that they~~ had no such claims to make, induced the Government to order exparte in G.C. number 2229 Revenue dated 30-8-'39. that the Board of Revenue would be requested to direct the Collector of South Kanara to give Effect to the assignment ordered by the Tahsildar. It is this order of the Government that the petitioners who are all the adjoining Wargdars, seek to be reviewed by the Government.

5. Petitioners submit that the Government under the Board standing orders could not interfere as there was absolutely nothing in the order passed by the Collector and the Board showing fraud or misrepresentation of fact or any meterial irregularity in the Procedure which alone would give the Government Jurisdiction to interfere with the concurrent orders passed by the Collector and the Board of Revenue.

6. The Government have set aside an order passed by the Board in favour of the Petitioners without giving notice to these Petitioners or hearing their representations in the matter and this is clearly opposed to rules of natural justice and equity, and has caused great injustice to the petitioners and therefore liable to be reviewed and set aside.

7. The Grounds of the decision by the Government are clearly opposed tothe findings of the Collector as well as the Board and as much cannot hold good.

8. Petitioners did not come to know of this Government Order as the same was not communicated to them and when they came to know of the order they applied for the copy of the order to the Board of Revenue on 1-10-40 but the Board informed them that they should apply to the Government for the copy of the aforesaid Government Order and they were informed on the 12th of November 1940 by the Govt. that the copy could not be granted to them.

9. Petitioners were all along trying to find out the particulars and the basis for the order of the Government and hence they could not apply earlier to the Government for review of this order but the Petitioners submit that they are still within three years from the date of the aforesaid G.O.

10. The Dharkast plots slope towards and supply leaf manure to the lands comprised in the following Pattas of the Village:

a) Patta No.120 held by the Pt.petitioners (b) Patta No.81 held by the 2nd petitioner, (c) Patta No.122 held by the 3rd petitioner, (d) Patta No.123 held by the 4th petitioner and others junior members of her family, (e) Patta No.184 held by the 5th petitioner with others the junior members of the family, (f) Patta No.73 held by the 6th petitioner with her younger sisters, (g) Patta No.107 held by the 7th petitioner who has only a life interest in the properties in this Patta,

with the remainder vested in the 1st petitioner and (h) Patta No.146 hgld by the 8th petitioner.

11. The respondent has admitted in his revision petition filed before the Board of Revenue that the respondents or atleast most of them are the adjoining wargdars.

12. It is positively untrue to say that the petitioners have no preferntial claims for the lands assiagned to the respondent and that they did not put forward these caaims. A reference to the revision petition filed by the petitioner 1 to 6 along with 3 other joint owners of the adjoining Warglands would bear out that in spite of the fraudulent suppression of the assignemt proceedings by deliberately procuring the non service of the notice, the adjoining Wargadars did urge their claims before the Collector whose opinion about these claims cannot prejudice the petitioners, since the Collector had prevented him from further agitating the matter by cancelling the order of assignment.

13. The respondent must have deliberately suppressed from the Government the fact that the petitioners adjoining warglands depend for their proper cultivation upon the water from the 5 springs and are existing in the plots assigned to the respondent + his is sure to render the cultivation of these Kadim Warglands practically impossible as urged by the 1st petitioner in his own behalf and on behalf of the other neighbouring wargdars in paras of the petition filed by him before the Collector on or about 11-3-'38.

14. The order sought to be reviewed must have been passed also on the respondents mis-representation behind the back of the petitioners that the adjoining Wargdars had ample Punja lands as an aid to the cultivation of their patta lands in the Village, while the respondent had not enough of Punja lands necessary for the cultivation of his lands. The petitioners submit that as urged in para 7 of the petition to the Collector dated 11-3-'38, referred to above, even if the whole of the hill out of which the Dharkast plots have been

carved were assigned to them they would not have enough punja lands for the cultivation of their adjoining Nanja and garden lands whose extent is not less then 100 acres. It is also apprehended by the petitioners that the respondent must have mis-represented to the Government that his Patta lands were either in the Village where the Dharkast plots lie or that they (his lands) were pretty near the Dharkast plots. On the other hand as observed by the Board of Revenue, in its preceedings referred to above, respondent has no lands anywhere near the Dharkast plots.

15. The Government must have been misled by the respondent by not bringing to its notice the fact that as urged in the above mentioned petition of 11-3-'38 to the Collector, in its 5th paragraph, the 2nd petitioner's mother Muthu Sedthi had as far back as 1930 improved a portion of S.No.193 and applied for its assignment to her on behalf of her family, thus creating the impression that the adjoining Wargdars were not likely to claim the Darkast plots.

16. The respondent deliberately suppressed from the notice of the Government the important fact that D.R.No.156/47 on the file of the Tahasildar of Udipi initiated by the petitioners for the assignment to them of various portion of the plots in question was pending before the Tahsildar at the time of the ~~time~~ Government entertaing ~~and condoning~~ the respondents petition to it. This fact if brought to the notice of the Government would have shown to it the existence and nature of very valid claims the petitioners were urging to the plots assigned by the Government to the respondent.

17. Prays therefore that the Government may be pleased to call for the records and after perusal of the same review its order dated 30-8-39 and do justice to the Petitioners.

Advocate for Petitioners

Madras.
Dated. 24-VII-46

Before the Government

of Madras.

South Kanara District.

Review Petition:-

By

Sri K.P.Sarvothan

Advocate for Petitioner.

46 Big Street

Triplicane.

40

1941.

advocate

advocate

Before the Government of Madras.

South Kanara Dist.....

Vakalat for Review Petition.

VAKALAT.

4-1

Rev Dept

A.R. 16/8 6/1618

G.M. No. 2706 F/41 - 1 & 15 8.

Assignments Land - (S. Kanara). Udipi taluk - Vandicur village S. Nos. 191/2, &c - Sri Raghuma Thirtha Swamias - Objection. c/o No. 2229 Rev, & 30.8.39 Reconsideration.

From Sri Vaman Shanbhog
f.r. 1-9 Cf- + Ltrs, petition, & 30.7.41

Have considered the representations made in the petition
The Govt/ see no grounds
~~for reconsidering~~ to reconsider / the orders
issued in G.O. No. 2229 Rev.,
& 30.8.39. The petition
~~quoted above~~ is dismissed

RD 14/8 DoR 14.8

Vaman Shanbhog, & Ltrs
thro' his Advocate
Sri. K.P. Sarvothama Rao,
Advocate, No 46,
Big Street, Triplicane,
Madras.

46 Revenue Department.

Assignment - Land - (South Kanara) - Udipi taluk Nandicur village - S.Nos.191/2 etc - Raghumanya Thirtha Swamiar - Objection.

From Vamana Shabhog and others, petition, d/30.7.41.

1.1-9 cf.

To U.S.

Please see the petition at pp.1-9 c.f.

2. The petitioners seek to revise the orders in G.O.No.2229, Rev., dated 30.8.1939. Perusal is requested of the notes at pp.21 to 24 of the G.O. (X) For orders whether the petitioners may be informed that the Govt. see no reason to revise the order in question or whether a report may be called for in view of the allegations in paras 13 and 15 of the petition at pp.7 & 8 c.f., [which were not before Govt. when they passed the order at fl.(X)].

1.p 26-27 of (X)

BRR 1/8

ASR 3.8.41.

I find it difficult to believe that the petrs were not aware of the G.O. of 30.8.1939 until very recently. On their own showing they applied to the Bd for a copy of it on 1.10.40 (Anx p5 of) but their petition was not presented till 30.7.41 nine months later. This suggests that they have no real grievance The petition may be rejected

(X)

1/8

1 - 5

. I know that it is said a
policy that the Board's orders were
not upheld in (X) but I do
not consider that fact alone is
strong enough to justify
Govt cancelling the orders in (X)

Gw
7.8.41

A I Jasper that the petition
should be dismissed.
7.8.41

C. 8.8.41
R: 12.8.41

J. W. S.

SECRETARY TO GOVERNMENT
12 AUG 1941
REVENUE

A draft Memo., dismissing
petition is submitted for approval.
[After issue the papers may be
stitched with (X)]

9 DSR 14.8.
8

14.8

C.M. Secy 15/8

15/8

Stitched